Counter

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April 10, 2008

To: Supervisor Yvonne B. Burke, Chair
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From: William T Fujioka
Chief Executive Officer

WASHINGTON, D.C. UPDATE

Moratorium on Pending Medicaid Regulations

On April 9, 2008, the House Energy and Commerce Health Subcommittee approved, on a voice vote, H.R. 5613 (Dingell, D-MI), a bill which would extend, through April 1, 2009, the current moratorium blocking the implementation of pending regulations which, otherwise, would limit Medicaid payments to public providers to the cost of providing services to Medicaid recipients and eliminate Medicaid reimbursement of Graduate Medical Education (GME) costs.

Last year, as part of the Iraq War supplemental appropriations bill (Public Law 110-28), Congress blocked the implementation of these regulations for one year after the bill's enactment. The public provider payment limit rule could take effect as soon as this moratorium expires on May 25, 2008 because it was issued as a final rule by the Centers for Medicare and Medicaid Services (CMS) on May 25, 2007. If implemented, these two regulations could reduce annual Medicaid revenue to the County by an estimated $240 million. The County's Washington, D.C. advocates have been pursuing legislation, such as H.R. 5613, which would extend this moratorium.

H.R. 5613 also would impose a moratorium on the implementation of other pending regulations which would greatly reduce Medicaid payments for hospital outpatient services, rehabilitative services, targeted case management services, and school-based services, and which would restrict the use of health care provider fees to help finance the non-federal share of Medicaid costs. The House Energy and Commerce Committee is expected to mark up the bill next week. The County's Washington, D.C. advocates have heard that the Administration is pursuing an amendment which would require individual claiming and reporting for Medicaid-funded services provided to uninsured patients in return for repealing or delaying implementation of the public provider payment limit rule. Such a new requirement could jeopardize Medicaid safety net care pool funding to the County. The County's Washington, D.C. advocates are working with Congressional staff to obtain and analyze the amendment language.

The Senate Finance Committee, which also has jurisdiction over Medicaid, has not yet taken action on either S. 2460 (Bingaman, D-NM) or S. 2819 (Rockefeller, D-WV), which include language to extend the current moratorium on the Medicaid public provider payment limit and GME rules. S. 2460 would extend a moratorium on the Medicaid public provider payment limit, GME, and hospital outpatient rules for an additional year through May 25, 2009, while S. 2819 would extend a moratorium on eight pending Medicaid rules and a State Children's Health Insurance Program policy guidance, issued last August, through April 1, 2009.

Targeted State Fiscal Relief

In addition, S. 2819 also would provide $12 billion in targeted state fiscal relief in Federal Fiscal Years 2008 and 2009, half of which would be provided through a temporary 1.667 percentage point increase in the Federal Medicaid match rate and the other half through grants, which could be spent by states on "essential government services." Only states with one of the 38 highest averages of the state rankings for year-to-year reduction in total employment, year-to-year increase in Food Stamps participation, and year-to-year increase in the foreclosure rate, based on the most recent available data would qualify for fiscal relief. It is highly unlikely that this fiscal relief package would be enacted. This is because "pay-as-you-go" budget rules would require $12 billion in offsetting spending cuts or revenue increases, and because extending the moratorium on Medicaid regulations has far greater broad-based support.

We will continue to keep you advised.

WTF:GK
MAL:MT:hg

c: All Department Heads
Legislative Strategist